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March 25, 1999

Dear Xxxxx:

This letter is in response to your letter dated January 5, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

I am writing this in regard to my client whom through confusion paid sales tax on a vehicle through the state of Illinois. She works in Illinois but is a resident of the state of Indiana and when she purchased her vehicle, the sales tax was paid through Illinois. Since then, the Indiana Department of Revenue has sent her a request for payment of the sales tax through their state.

I phoned your offices on November 24 to inquire as to what could be done to enable a credit through the state of Indiana or a refund through the state of Illinois. I was told at that time that the only thing that could be done would be for PERSON to request a refund through the dealer from which she purchased the vehicle. I requested this information in writing to provide the state of Indiana and on December 28 called to ask the status of this written correspondence. I was told at that time that I would have to request this information in written form, and hence, am doing so in this letter.

If you have any questions or concerns regarding this matter, please do not hesitate to call me at ####.

The Department's regulation, 86 Ill. Adm. Code 130.605, Sales of Property Originating in Illinois, states that where tangible personal property is located in this State at the time of its sale (or is subsequently produced in Illinois), and then delivered in Illinois to the purchaser, the sale is taxable if the sale is at retail. The sale is not deemed to be in interstate commerce if the purchaser or his representative receives the physical possession of such property in this State. This is so notwithstanding the fact that the purchaser may, after receiving physical possession of the property in this State, transport or send the property out of the State for use outside the State or for use in the conduct of interstate commerce.

There are two exceptions to the rule that the sale is not deemed to be a sale in interstate commerce if the purchaser or his representative receives physical possession of the property in Illinois. The first exception is relevant to your inquiry and states as follows:

"Effective July 23, 1971, the tax is not imposed upon the sale of a motor vehicle in this State to a nonresident even though such motor vehicle is delivered to such nonresident in this State, if such motor vehicle is not to be titled in this State, and if a driveaway decal permit is issued to such motor vehicle as provided in Section 3-603 of the Illinois Vehicle Code or if the nonresident purchaser has vehicle registration plates to transfer to the other vehicle upon returning to his home state. The issuance of the driveaway decal permit shall be prima facie evidence that such motor vehicle will not be titled in this State." See 86 Ill. Adm. Code 130.605.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk
Enc.